

SUPREME COURT GUIDELINE FOR MONITORING COURT-APPOINTED ATTORNEY FEES

Nebraska county governments are responsible for the costs of court-appointed counsel for indigents in certain criminal and civil judicial proceedings. Indigent defendants charged with an offense which may result in imprisonment are entitled to court-appointed counsel. Even absent statutory authority, the courts have the inherent authority to make such appointments. *Kovarik v. County of Banner*, 192 Neb. 816, 224 N.W.2d 761 (1975). Court-appointed counsel is entitled to be paid *reasonable* attorney fees and expenses. See Neb. Rev. Stat. § 29-3905. Additionally, in some civil proceedings, such as actions under the Nebraska Juvenile Code, see, e.g., Neb. Rev. Stat. § 43-272, a juvenile has the right to counsel at county expense if the child or the parents are indigent.

The Nebraska Supreme Court is vested with the inherent authority to do all things necessary for the proper administration of justice and equity and the constitutional power to promulgate uniform rules for the effectual administration of justice. These powers include the authority to establish a statewide uniform compensation scheme for court-appointed attorneys. Such a mandatory system could become necessary where inadequate compensation of court-appointed counsel by county governments begins to impair the right to effective assistance of competent counsel. At present, the Court concludes that such a system may be premature. In the alternative, however, in order for this Court to fulfill its duty to ensure that indigent persons are provided with competent, effective counsel, the Court hereby adopts the following guideline for statewide monitoring of court-appointed attorney fees and expenses paid by the counties:

Judges of the Nebraska judicial system may, in writing, request an inquiry by the Nebraska Supreme Court into inadequate compensation of court-appointed attorneys by counties within their judicial district. Written requests for an inquiry shall be presented to the Chief Justice and shall include sufficiently specific information to allow an initial assessment as to the adequacy of compensation practices of the county or counties at issue. Upon a showing of good cause, the Chief Justice shall appoint a representative of the Court who shall contact the appropriate county officials regarding the county's alleged failure to meet its financial obligations to indigent persons in judicial proceedings. In the absence of satisfactory explanation by the county of its practices, the Court may take whatever action it deems appropriate in order to compel compliance with the law.